

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

SCHOTTEL & ASSOCIATES, P.C.,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 4:20-CV-1180
)	
U.S. BANCORP d/b/a U.S. BANK and)	
U.S. SMALL BUSINESS)	
ADMINISTRATION,)	
)	
Defendants.)	

PLAINTIFF’S COMPLAINT

COMES NOW Plaintiff Schottel & Associates, P.C. (hereinafter “Plaintiff”) and for its Complaint against Defendant U.S. Bancorp doing business as U.S. Bank (hereinafter “Defendant USB”) and Defendant U.S. Small Business Administration (hereinafter “Defendant SBA”) and respectfully states to this Honorable Court the following:

JURISDICTION

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1331 as:
 - (a) Plaintiff is a U.S. corporation with its principal place of business in the State of Missouri;
 - (b) Defendant U.S. Bancorp is an American bank holding company based in Minneapolis, Minnesota, and incorporated in Delaware;
 - (c) Defendant Small Business Administration is a United States government agency that provides support to entrepreneurs and small businesses; and
 - (d) This case is a nonjury civil action seeking resolution of a federal question regarding the Paycheck Protection Program (hereinafter the “PPP”) of the Coronavirus Aid, Relief,

and Economic Security Act (hereinafter the “CARES Act”).

VENUE

2. Venue is proper under 28 U.S.C. § 1391(b)(2).
3. Plaintiff is a law office with one (1) “employee”, who is paid as an independent contractor.
4. Plaintiff’s employee is paid various amounts throughout the year and is issued a year-end 1099-MISC.

FACTUAL BACKGROUND

A. PPP and Application Deadline

5. The PPP application deadline was originally June 30, 2020 and just hours before the expiration of said deadline, the Senate passed an extension of the deadline to August 8, 2020.

6. According to a CNN report:

“The move to keep the application process for the program open comes as it was set to expire with more than \$130 billion in allocated funds that remain unused. The program was designed to offer small business loans to bridge the shutdowns and help businesses keep employees in their jobs -- and in turn, the loans taken out would be forgiven, essentially shifting into a grant.”

See Phil Mattingly. “Senate passes extension of Paycheck Protection Program until August 8, hours ahead of deadline. *CNN*. 30 June 2020:
<https://www.cnn.com/2020/06/30/politics/paycheck-protection-program-extension-passes-senate/index.html> (last visited Aug. 30, 2020).

7. On July 13, 2020, Defendant U.S. Bank sent Plaintiff’s President, James W. Schottel, Jr. (hereinafter “Schottel”), an email regarding the PPP application extension. (*See July 13, 2020 Email attached hereto and labeled as Plaintiff’s Exhibit 1*).

B. PPP Application

8. Prior to Defendant U.S. Bank sending the July 13, 2020 email, Plaintiff was and has been a customer of Defendant U.S. Bank, maintaining multiple accounts with Defendant U.S.

Bank.

9. After the July 13, 2020 email, Schottel started and completed the PPP application with Defendant U.S. Bank.

10 Plaintiff's employee's yearly salary is approximately \$30,000.00.

11. In the application process, Defendant U.S. Bank stated that based upon the information provided by Plaintiff, the loan amount Plaintiff could receive through the PPP was approximately \$8,100.00

12. Plaintiff received a request from Defendant U.S. Bank for documentation regarding Plaintiff's employee's salary.

13. Plaintiff provided Defendant U.S. Bank an initial set of documentation.

14. On July 21, 2020, Defendant U.S. Bank sent Schottel an email requesting additional documentation regarding Plaintiff's employee's salary. (*See July 21, 2020 Email attached hereto and labeled as Plaintiff's Exhibit 2*).

15. Plaintiff sent a second set of documentation regarding Plaintiff's employee's salary and by July 29, 2020, Defendant U.S. Bank had 28 pages of documentation regarding Plaintiff's employee's salary. (*Application Documents attached hereto and labeled as Plaintiff's Exhibit 3*¹).

16. On July 30, 2020 and July 31, 2020, Defendant U.S. Bank sent Schottel emails stating that the application was "In review." (*See July 30, 2020 Email attached hereto and labeled as Plaintiff's Exhibit 4 and July 31, 2020 Email attached hereto and labeled as Plaintiff's Exhibit 5*).

17. Despite the method of payment of Plaintiff's employee, Plaintiff is entitled to a loan under the PPP.

¹ These documents contain private and sensitive material, particularly Plaintiff's employee's Social Security Number and tax documentation and Plaintiff files a motion concurrently herewith to file Exhibit 3 under seal.

18. The August 8, 2020 PPP application deadline came and passed and Plaintiff believed their application was submitted.

19. However, Schottel received a letter from Defendant U.S. Bank dated August 12, 2020 that Defendant U.S. Bank could not extend credit to Plaintiff because, “Sba ppp program no longer available.” (*See August 12, 2020 Letter attached hereto and labeled as Plaintiff’s Exhibit 6*).

20. Defendant U.S. Bank admitted that they failed to timely submit Plaintiff’s PPP application to Defendant SBA.

COUNT I
EQUITABLE RELIEF

21. Plaintiff re-alleges all of the preceding paragraphs as if set forth fully herein.

22. Plaintiff’s PPP application was not timely filed but for Defendant U.S. Bank’s dereliction of duty and Plaintiff prays for an order directing that Plaintiff’s PPP application be processed as timely.

WHEREFORE, Plaintiff prays for injunctive relief in the ordering of Defendant U.S. Bank to submit Plaintiff’s PPP application and supporting documentation to Defendant SBA for processing and further order Defendant SBA for processing as if it were timely filed and for costs and for such other relief as may be just under the circumstances.

Respectfully submitted,

SCHOTTEL & ASSOCIATES, P.C.

BY: s/*James W. Schottel, Jr.*

James W. Schottel, Jr. #51285MO
906 Olive St. PH
St. Louis, MO 63101
(314) 421-0350
(314) 421-4060 facsimile
jwsj@schotteljustice.com

Attorney for Plaintiff
Schottel & Associates, P.C.